

ORDINANCE NO. 25

Series 2012

AN ORDINANCE ADOPTING CHAPTER 23 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE CONCERNING CIVIL EMERGENCIES, EMERGENCIES, AND LOCAL DISASTERS

WHEREAS, Section 15.7 of the Breckenridge Town Charter empowers the Mayor, or in his absence, the Town Manager to take certain acts in the event of a riot, insurrection, or extraordinary emergency; and

WHEREAS, Section 15.8 of the Breckenridge Town Charter, entitled "Continuity of Government", mandates that the Town Council shall have the power to provide for continuity of the government of the Town of Breckenridge in the event of a natural or enemy caused disaster; and

WHEREAS, the Town Council wishes to enact legislation to fully implement these Charter provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Title 1 of the Breckenridge Town Code is amended by the addition of a new Chapter 23, entitled "Civil Emergencies, Emergencies, or Local Disasters", which shall read in its entirety as follows:

CHAPTER 23

CIVIL EMERGENCIES, EMERGENCIES, OR LOCAL DISASTERS

SECTION:

- 1-23-1: Title
- 1-23-2: Legislative Declaration
- 1-23-3: Definitions
- 1-23-4: Authorization to Issue Declaration of Civil Emergency, Emergency, or Local Disaster
- 1-23-5: Filing of Declaration
- 1-23-6 Term of Declaration
- 1-23-7: Succession of Authority
- 1-23-8: Powers
- 1-23-9: Enforcement of Orders
- 1-23-10: Authority to Enter Property
- 1-23-11: Location of Town Council Meetings and Departments
- 1-23-12: Mutual Aid Agreements
- 1-23-13: Access to TABOR Funds
- 1-23-14: Report By Town Manager/Discretionary Ratification By Town Council
- 1-23-15 Conflict With Other Laws

1-23-1: TITLE: This Chapter shall be known and may be cited as the "Town of Breckenridge Civil Emergency, Emergency, and Local Disaster Ordinance."

1-23-2. LEGISLATIVE DECLARATION: It is the intent of this Chapter to provide for Continuity of Government (Sec. 15.8, Town Charter) and for the necessary organization, powers, and authority to enable the timely and effective use of all available Town resources to prepare for, respond to and recover from civil emergencies, emergencies, or local disasters, whether natural or man-made, that are likely to affect the health, security, safety, or property of the inhabitants of the Town. It is intended to grant as broad a power as is permitted within the letter and spirit of the Town Charter and the Council-Manager form of government. The Town Council retains the power to direct the Town Manager during the pendency of a declaration.

1-23-3: DEFINITIONS:

- A. As used in this Chapter, the following words have the following meanings, unless the context otherwise requires:

CIVIL EMERGENCY:	A condition of unrest including, but not limited to riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism, or sabotage.
DECLARATION:	The written document executed by the Mayor or Town Manager declaring a disaster, emergency, or civil emergency.
EMERGENCY:	Any occurrence or threat of natural or man-made disaster of a major proportion in which the safety and welfare of the inhabitants of the Town or their property are jeopardized or placed at extreme peril that timely action may avert or minimize.
LOCAL DISASTER:	The occurrence of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause including but not limited to flood, fire, cyclone, tornado, earthquake, severe high or low temperatures, blizzard, landslide, mudslide, hurricane, building or structural collapse, high water table, water pollution, air pollution, epidemic, riot, drought, utility emergency, sudden and severe energy shortages, volcano, snow, ice, windstorm, waves, hazardous substance spills, chemical or petroleum spills, biological material release or spill, radiological release or spill, structural failure, public health emergency or accidents.

B. Terms not defined in this Chapter are to be given their common meaning.

1-23-4: AUTHORIZATION TO ISSUE DECLARATION OF CIVIL EMERGENCY, EMERGENCY, OR LOCAL DISASTER: The Mayor, or in his absence the Town Manager, is authorized to declare a civil emergency, emergency, or local disaster if such person finds that the Town, or any part of the Town, is suffering from or is in imminent danger of suffering a natural or man-made civil emergency, emergency, or local disaster. If the Mayor issues the declaration, the Town Manager is authorized and directed to implement the declaration in accordance with this Chapter.

1-23-5: FILING OF DECLARATION: The person issuing the declaration pursuant to Section 1-23-4 shall promptly notify the Town Council. In addition, such person shall promptly file a copy of the declaration with the Town Clerk and the Board of County Commissioners of Summit County. The public shall be notified of such a declaration through general dissemination to the news media, posting on the Town website, or other means of publicity intended to advise the general public.

1-23-6: TERM OF DECLARATION: The declaration of a civil emergency, emergency, or local disaster shall be in effect as determined by the person issuing the declaration for a period of up to seven (7) days. This period may be extended upon submission of a request by the person issuing the declaration and the approval of the Town Council. In the event a quorum of the Town Council cannot be assembled to approve a continuance of the declaration, such declaration shall remain in effect until such time as a quorum can be assembled. In the event a quorum of the Town Council can meet to provide the Town Manager with advice and consultation during the pendency of a declaration, such meeting shall be held in compliance with the Colorado Open Meetings Law and Town Council Rules and Procedures as soon as possible, but in no event later than seven (7) days following the initial declaration.

1-23-7: SUCCESSION OF AUTHORITY: In the event of a civil emergency, emergency, or local disaster the succession of authority shall be as provided in Section 15.8 of the Town Charter.

1-23-8 POWERS: Upon the issuance of civil emergency, emergency, or local disaster declaration, the Town Manager has full power and authority to take the following actions and issue the following orders:

- (a) any action necessary for the protection of life and property, including, but not limited to, establishing regulations governing conduct related to the cause of the emergency or disaster.
- (b) an order establishing a curfew during such hours of the days or nights and affecting such categories of persons as may be designated.
- (c) an order to direct and compel the evacuation of all or a part of the population from any stricken or threatened areas within the Town if the Town Manager deems this action is necessary for the preservation of life, property or other civil emergency, emergency, or local disaster mitigation, response or recovery activities and to prescribe routes, modes of transportation and destination in connection with an evacuation.
- (d) an order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing, and other commodities, materials, goods, services and resources.
- (e) an order requiring the closing of businesses deemed nonessential by the Town Manager.
- (f) an order suspending or limiting the sale, distribution, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustible products and requiring the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned.
- (g) an order prohibiting the sale or distribution within the Town of any products that the Town Manager determines could be employed in a manner that would constitute a danger to public health or safety.
- (h) subject to any applicable requirements for compensation, commandeer or use any private property if the Town Manager finds this action necessary to cope with the civil emergency, emergency or local disaster.
- (i) appropriate and expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.
- (j) transfer the direction, personnel, or functions of Town departments and agencies for the purposes of performing or facilitating civil emergency, emergency, or local disaster services.
- (k) utilize all available resources of the Town as may be reasonably necessary to cope with the civil emergency, emergency, or local disaster whether in preparation for, response to, or recovery from a civil emergency, emergency, or local disaster.
- (l) suspend or modify the provisions of any ordinance if strict compliance with such ordinance would in any way prevent, hinder or delay necessary action in coping with any civil emergency, emergency, or local disaster.
- (m) accept services, gifts, grants and loans, equipment, supplies, and materials whether from private, nonprofit or governmental sources.
- (n) suspend or limit the use of the Town's water resources.
- (o) make application for local, state or federal assistance.
- (p) terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety and welfare of persons or property within the Town.
- (q) delegate authority to such Town officials as the Town Manager determines reasonably necessary or expedient.
- (r) require the continuation, termination, disconnection or suspension of natural gas, electric power, water, sewer or other public utilities.
- (s) close or cancel the use of any municipality owned or operated building or other public facility.
- (t) exercise such powers and functions in light of the exigencies of civil emergency, emergency, or local disaster including the waiving of compliance with any time consuming procedures and formalities, including notices, as may be prescribed by law pertaining thereto.
- (u) issue any and all other order or undertake such other functions and activities as the Town Manager reasonably believes is required under the circumstances to protect the health, safety, welfare of persons or property within the Town of Breckenridge, or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of any civil emergency, emergency or local disaster.

The declaration of emergency shall list the restrictions applicable to that circumstance by reference to the individual subsections of this section. The restrictions may be changed from time to time during the time frame of the declaration based upon the discretion of the Town Manager.

1-23-9: ENFORCEMENT OF ORDERS:

(a) The members of the Police Department, code enforcement, and such other law enforcement and peace officers as may be authorized by the Town Manager are authorized and directed to enforce the orders, rules, and regulations made or issued pursuant to this Chapter.

All members of the public shall be deemed to have been given notice of the restrictions contained within a declaration upon its dissemination to the news media or publication on the Town website or other means of publicity.

(b) During the period of a declared civil emergency, emergency, or local disaster, a person shall not:

(1) enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment.

(2) violate the provisions of a declaration issued pursuant to Section 1-23-4.

(3) violate any of the orders duly issued by the Town Manager or designee pursuant to such declaration.

(4) willfully obstruct, hinder, or delay any duly authorized Town officer, employee or volunteer in the enforcement or exercise of the provisions of the Chapter, or of the undertaking of any activity pursuant to this Chapter.

(c) The Municipal Court shall have the jurisdiction to preside over alleged violations of this section. A person convicted of a violation of this section shall be subject to the penalties set forth in section 1-4-1 of this Code.

1-23-10: AUTHORITY TO ENTER PROPERTY: During the period of a declared civil emergency, emergency, or local disaster, a Town employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared civil emergency, emergency, or local disaster.

1-23-11: LOCATION OF TOWN COUNCIL MEETINGS AND DEPARTMENTS:

(1) Whenever a civil emergency, emergency, or local disaster makes it imprudent or impossible to conduct the affairs of the Town at its regular locations, the Town Council may meet at any place, inside or outside the Town limits, or may meet via the telephone or other communication device. Any temporary civil emergency, emergency, or local disaster meeting location for the Town Council shall continue until a new location is established or until the civil emergency, emergency or local disaster is terminated and the Town Council is able to return to its normal location.

(2) Any emergency meeting of the Town Council shall be conducted in accordance with the applicable provisions of the Council's Procedures and Rules of Order.

(3) Whenever a civil emergency, emergency, or local disaster makes it imprudent or impossible to conduct the affairs of any department of the Town at its regular location, such department may conduct its business at any place, inside or outside the Town limits, and may remain at the temporary location until the civil emergency, emergency or local disaster is declared ended or until the department is able to return to its normal location.

(4) Whenever a civil emergency, emergency, or local disaster makes it imprudent or impossible for Town Council, or any Town board, commission, or committee, to meet at a previously scheduled date and time, such meeting shall be deemed to be postponed until a quorum of the Town Council or Town board, commission, or committee is able to meet, not to exceed one (1) week.

(5) Any official act or meeting required to be performed at any regular location of the Town Council board, commission, or committee or any Town department is valid when performed at any temporary location under this section.

(6) The provisions of this section shall apply to all executive, legislative, and judicial branches, powers and functions conferred upon the Town and its officers, employees, and authorized agents by the Colorado Constitution, Colorado Statutes, the Town Municipal Code, including the Town Charter.

1-23-12: MUTUAL AID AGREEMENTS:

(1) The Town Manager may, on behalf of the Town, enter into such reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements, or other compacts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

(2) The Town Council or any Town board, commission, or committee may exercise such powers and functions in light of the exigencies of the emergency or disaster and may waive compliance with time consuming procedures and formalities prescribed by law pertaining thereto.

(3) The foregoing shall apply to all executive, legislative and judicial powers and functions conferred upon the Town and its officers, employees and authorized agents.

1-23-13: ACCESS TO TABOR FUNDS: In the event of a declared civil emergency, emergency, or local disaster, the Town Manager shall have access to the Town's emergency

funds mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in Article X, Section 20, Subsection (5) of the Colorado Constitution, entitled "Emergency reserves." Funds utilized pursuant to this Chapter shall be replenished no later than the conclusion of the fiscal year following the end of the emergency.

1-23-14: REPORT BY TOWN MANAGER/DISCRETIONARY RATIFICATION BY TOWN COUNCIL: At such time as a civil emergency, emergency, or local disaster is declared to have ended, the Town Manager shall prepare a written report that details the official actions taken by the Town Manager during the declaration, including a timeline, significant actions, and a detailed summary of all expenses incurred during such declaration and such written report shall be submitted to the Town Council within thirty (30) days. The Town Council may, but is not required to, approve a resolution ratifying the actions taken by the Town Manager during the declaration. In the event that a resolution is not approved, the Town Manager report shall be retained by the Town Clerk and made a part of the official record of the Town Council Meeting at which the report was discussed by the Town Council in conjunction with the Town Manager.

1-23-15: CONFLICT WITH OTHER LAWS: If any provision of this Chapter conflicts with the Town Charter, the Town Charter shall control. If any provision of this Chapter conflicts with any provision of this Code, or any provision of the Town Councils Procedures and Rules of Order, this Chapter shall control.

Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to Section 15.8 of the Breckenridge Town Charter, and the authority granted to home rule municipalities by Article XX of the Colorado Constitution.

Section 5. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.


INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 10th day of July, 2012.

This ordinance was published in full on the Town of Breckenridge website on July 12, July 13 and July 14, 2012.

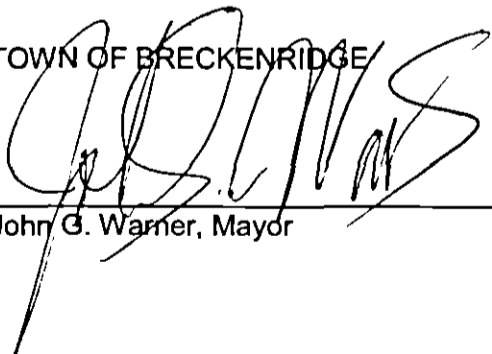
A public hearing on this ordinance was held on July 24, 2012.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of July, 2012. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

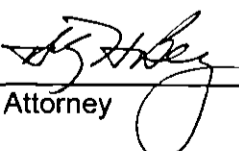
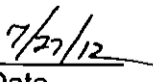
ATTEST:


Laura Kennedy, Town Clerk

TOWN OF BRECKENRIDGE


John G. Warner, Mayor

APPROVED IN FORM

 
Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on July 27, July 28, July 29, July 30 and July 31, 2012. This ordinance shall become effective on August 30, 2012.